

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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| In re: | : | CHAPTER 11 |
| | : | |
| SCUNGIO BORST & ASSOCIATES, LLC, | : | BANKRUPTCY NO. 22-10609(AMC) |
| | : | |
| Debtor. | : | |
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**EXHIBIT 1.65 (SBA PLAN TRUST AGREEMENT)
TO THE JOINT PLAN OF LIQUIDATION PROPOSED BY SCUNGIO BORST &
ASSOCIATES, LLC, DEBTOR-IN-POSSESSION, AND THE OFFICIAL COMMITTEE
OF UNSECURED CREDITORS OF THE ESTATE OF DEBTOR**

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Dated: September 22, 2023

SBA PLAN TRUST AGREEMENT

This SBA Plan Trust Agreement (this “Trust Agreement”) dated as of _____, 2023, and effective as of the Effective Date (as defined in the Plan), is entered in accordance with the Joint Plan of Liquidation proposed by Scungio Borst & Associates, LLC, Debtor in Possession (the “Debtor”), and the Official Committee of Unsecured Creditors of the Debtor’s Estate (the “Committee”), dated as of September 20, 2023 [D.I. ____] (as it may be amended, modified, or supplemented, the “Plan”), by the Debtor and Committee; [●], as the SBA Plan Trust Administrator (together with any successor serving in such capacity, the “SBA Plan Trust Administrator”; and the members of the SBA Plan Trust Advisory Board who are the individuals further identified on the signature pages hereto (together with any successors serving in such capacity, the “SBA Plan Trust Advisory Board”).

RECITALS

WHEREAS, on March 11, 2022, the Debtor commenced a voluntary case under chapter 11 of title 11 of the United States Code (the “Chapter 11 Case”);

WHEREAS, on _____, the Bankruptcy Court entered an Order [D.I. ____] (the “Confirmation Order”) which approved the Plan, and without limitation, authorized the establishment of the SBA Plan Trust (as defined below) and the execution of this Trust Agreement;

WHEREAS, this Trust Agreement is executed to establish the SBA Plan Trust (the “SBA Plan Trust”) pursuant to the Plan, to administer and liquidate the SBA Plan Trust Assets (defined below) and to distribute the proceeds thereof to holders of Allowed Claims under the Plan in accordance with the priorities and terms of the Plan;

WHEREAS, holders of Allowed Claims under the Plan shall mean (a) Allowed Administrative Expense Claims, including the Allowed Professional Fee Claims, (b) Allowed Class 1 Priority Non-Tax Claims, (c) Allowed Priority Tax Claims, (d) the fees and expenses incurred by the SBA Plan Trust, including the SBA Plan Administrator, and (e) Allowed Class 2 General Unsecured Claims, as each of these terms are defined in the Plan;

WHEREAS, the Effective Date of the Plan has occurred on or about the date hereof;

WHEREAS, pursuant to Treasury Regulation Section 301.7701-4(d), the SBA Plan Trust shall be created for the primary purpose of administering and liquidating the SBA Plan Trust Assets for the benefit of the holders of one or more beneficial interests in the SBA Plan Trust (each a “Beneficial Interest”), which represents the rights to receive Distributions from the SBA Plan Trust under the Plan (each a “Beneficiary” and collectively, the “Beneficiaries”), in accordance with the terms of this Trust Agreement and the Plan and for making all Distributions under the Plan, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to and consistent with the purposes of the Plan and the Confirmation Order; and

WHEREAS, the SBA Plan Trust is intended to qualify as a “grantor trust” for United States federal income tax purposes, pursuant to Sections 671-677 of the Internal Revenue Code of 1986, as amended (the “IRC”), with the Beneficiaries to be treated as the grantors of the SBA Plan Trust and deemed to be the owners of the SBA Plan Trust Assets (subject to the rights of the Beneficiaries of the SBA Plan Trust), and consequently, the transfer of the SBA Plan Trust Assets to the SBA Plan Trust shall be treated as a deemed transfer of those assets by the Debtor and its Estate to the Beneficiaries followed by a deemed transfer by such Beneficiaries to the SBA Plan Trust for federal income tax purposes; and

WHEREAS, under the terms of the Plan and the Confirmation Order, as of the Effective Date, the SBA Plan Trust Assets shall be transferred to and shall be deemed to have irrevocably transferred to the SBA Plan Trust, for and on behalf of the Beneficiaries, with no reversionary interest in the Debtor and its Estate in the SBA Plan Trust Assets existing as of the Effective Date.

NOW, THEREFORE, pursuant to the Plan and the Confirmation Order, in consideration of the promises, the mutual agreements of the parties contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and affirmed, the parties hereby agree as follows:

ARTICLE I DECLARATION OF TRUST

1.1 SBA Plan Trust Assets. The term “SBA Plan Trust Assets” shall mean, except for the Professional Fee Reserve, all Assets of the Debtor in existence as of the Effective Date of the Plan.

1.2 Debtor’s Creation and Purpose of the Plan Trust. Upon the Effective Date, the SBA Plan Trust shall be created for the primary purpose of liquidating and distributing the SBA Plan Trust Assets to the Beneficiaries in accordance with this Trust Agreement, the Plan, the Confirmation Order, and applicable tax statutes, rules and regulations, and in an expeditious but orderly manner, with no objective to continue or engage in the conduct of a trade or business. Accordingly, the SBA Plan Trust Administrator shall hold the SBA Plan Trust Assets pursuant to the terms of this Trust Agreement (and shall not unreasonably prolong the duration of the SBA Plan Trust) by engaging in the following activities: (a) determining the identity of Beneficiaries hereunder by reconciling the Claims against the Debtor consistent with the terms of this Trust Agreement; (b) making all required Distributions to the Beneficiaries as provided for under the confirmed Plan and this Trust Agreement; (c) establishing and administering any necessary reserves for Claims, including the Disputed Claims Reserve, that may be required, all in accordance with this Trust Agreement; (d) taking other actions as may be necessary to effectuate the foregoing. The SBA Plan Trust will not hold itself out as an investment company and will not conduct a trade or business. This Trust Agreement is intended to create a liquidating trust for federal income tax purposes and to the extent provided by law shall be governed and construed as such a trust and any ambiguity herein shall be construed consistent with this intention and this Trust Agreement may be amended to comply retroactively with applicable federal income tax law.

1.3 Declaration of Trust. For good and valuable consideration, the receipt of which is hereby acknowledged by the undersigned, and pursuant to the terms of the Plan and the

Confirmation Order, the Debtor and the SBA Plan Trust Administrator have executed this Trust Agreement and, as of the Effective Date, the Debtor irrevocably transfers to the SBA Plan Trust, all of the rights, title, and interests of the Debtor in and to the SBA Plan Trust Assets, free and clear of liens, claims, and encumbrances of any kind to have and to hold unto the SBA Plan Trust and its successors and assigns forever, under the Plan and the Confirmation Order for the benefit of the Beneficiaries and their successors and assigns, all as provided for in this Trust Agreement.

1.4 Vesting of Assets. On the Effective Date, notwithstanding any prohibition of assignability under non-bankruptcy law, the SBA Plan Trust Assets shall be vested in the SBA Plan Trust in accordance with applicable law and applicable bankruptcy law, which SBA Plan Trust also shall be authorized to obtain, liquidate, and collect all of the SBA Plan Trust Assets in the possession of third parties. All such SBA Plan Trust Assets shall be delivered to the SBA Plan Trust free and clear of interests, claims, liens, and/or encumbrances of any kind. The SBA Plan Trust Administrator shall have no duty to arrange for any of the transfers contemplated in this Section 1.4 and shall be conclusively entitled to rely on the legality and validity of such transfers. Upon the transfer of the SBA Plan Trust Assets to the SBA Plan Trust, the Debtor will not have any interest in or with respect to such SBA Plan Trust Assets or the SBA Plan Trust (except that the KPG-MCG Litigation shall be administered by the management of the Debtor).

1.5 Privileges. As may be necessary, upon the Effective Date, in connection with any transferred Avoidance Actions and Causes of Action, the Debtor and the Committee hereby transfer, assign and deliver to the SBA Plan Trust Administrator, without waiver, and the SBA Plan Trust Administrator hereby assumes, all of the Debtor's and the Committee's respective rights, title and interests in and to any attorney-client privilege or other privilege or immunity, but excluding any work-product privileges of the Debtor (collectively, the "Privileges"), attaching to any documents or communications (whether written or oral) directly associated with the Avoidance Actions and Causes of Action for the purpose of the prosecution thereof, which may vest in the SBA Plan Trust Administrator, in trust, and, consistent with section 1123(b)(3)(B) of the Bankruptcy Code, for the benefit of the Beneficiaries. Other than the Privileges with respect to the Avoidance Actions and Causes of Action, no other privileges, including the attorney-client privilege and the work-product privilege of the Debtor and the Committee to which the Debtor or the Committee are entitled, shall be vested in or available for assertion by, or waiver by, the SBA Plan Trust Administrator on behalf of the SBA Plan Trust. To the extent any of the foregoing does not automatically occur on the Effective Date or is not effectuated through this Trust Agreement, the Debtor and the Committee shall, on the Effective Date, execute such other and further documents as are reasonably necessary to effectuate all of the foregoing.

1.6 Funding of the Trust. On the Effective Date, the SBA Plan Trust shall be funded with the SBA Plan Trust Assets, as provided for in the Plan and in the Confirmation Order.

1.7 Acceptance by SBA Plan Trust Administrator. The SBA Plan Trust Administrator hereby accepts the trust imposed upon it by this Trust Agreement and agrees to observe and perform that trust on and subject to the terms and conditions set forth in this Trust Agreement, the Plan and the Confirmation Order. In connection with and in furtherance of the purposes of the SBA Plan Trust, the SBA Plan Trust Administrator hereby accepts the transfer of the SBA Plan Trust Assets.

1.8 Treatment of Transfer of SBA Plan Trust Assets; SBA Plan Trust Interests.

For federal income tax purposes, all parties, including, without limitation, the Debtor, the SBA Plan Trust Administrator, and the Beneficiaries shall treat the transfer of SBA Plan Trust Assets, in accordance with this Trust Agreement, as: (a) a transfer of SBA Plan Trust Assets to the Beneficiaries with each Beneficiary deemed to receive an undivided interest in the specific SBA Plan Trust Assets pursuant and to the extent of the distribution rights set forth herein, the liquidation proceeds of which such Beneficiary is entitled to share in pursuant to this Trust Agreement, having a value that equals, as nearly as possible, the amount which such Beneficiary would receive, if on the Effective Date, and subject to the Plan, if all Disputed Claims (defined below) are treated as Allowed Claims hereunder, and all SBA Plan Trust Assets are liquidated, converted to Cash and distributed to Beneficiaries on account of Allowed Claims of all sorts and on account of SBA Plan Trust Administrative Expenses (defined below) under this Trust Agreement; followed by (b) a transfer to the SBA Plan Trust by each such Beneficiary of the undivided interest in that portion of the SBA Plan Trust Assets such Beneficiary was deemed to receive pursuant to subparagraph (a) above, and each such holder of an identified and registered interest hereunder shall be treated as the grantor and owner of such Beneficiary's respective portion of the SBA Plan Trust.

1.9 Name of SBA Plan Trust. As set forth above, the SBA Plan Trust established hereby shall be known as the "SBA Plan Trust".

ARTICLE II
THE SBA PLAN TRUST ADMINISTRATOR

2.1 Appointment. There shall be one (1) SBA Plan Trust Administrator. The initial SBA Plan Trust Administrator shall be [●]. As described in Section 2.2 of this Trust Agreement, the SBA Plan Trust Administrator shall have all the rights, powers, and duties set forth herein, the Plan, the Confirmation Order and pursuant to applicable law¹ for fulfilling the purposes of the SBA Plan Trust. The SBA Plan Trust Administrator's appointment shall continue until the earlier of (a) the termination of the SBA Plan Trust, or (b) the SBA Plan Trust Administrator's death, resignation, or removal.

2.2 General Powers and Authority. Except as otherwise provided in this Trust Agreement, the Plan or the Confirmation Order, the SBA Plan Trust Administrator may control and exercise authority over the SBA Plan Trust Assets, over the acquisition, management, and disposition thereof, and over the management and conduct of the business of the SBA Plan Trust. No person dealing with the SBA Plan Trust shall be obligated to inquire into the SBA Plan Trust Administrator's authority in connection with the acquisition, management, or disposition of SBA Plan Trust Assets. Without limiting the foregoing, but subject to the provisions of this Trust Agreement and applicable law, the SBA Plan Trust Administrator, supervised by the SBA Plan

¹ When used here and throughout this Trust Agreement, "applicable law" shall mean federal, state, local and international laws, rules and regulations, as applicable, in jurisdictions in which the Debtor (as reorganized or liquidated), and the SBA Plan Trust Assets are organized and/or held or as provided by contract, stipulation, written agreement of the parties or order of a court having jurisdiction.

Trust Advisory Board and subject to the provisions of Section 3.3 hereof, shall be with respect to the SBA Plan Trust and the SBA Plan Trust Assets expressly authorized to:

(a) Exercise all power and authority that may be or could have been exercised, commence all proceedings that may be or could have been commenced, and take all actions that may be or could have been taken with respect to the SBA Plan Trust Assets by any officer, director, shareholder, or other party acting in the name of the Debtor or its Estate, with like effect as if duly authorized, exercised, and taken by action of such officers, directors, shareholders, or other party;

(b) Open and maintain bank accounts on behalf of or in the name of the SBA Plan Trust, calculate and make distributions, and take other actions consistent with the Plan and the implementation thereof, including the establishment, re-evaluation, adjustment, and maintenance of appropriate reserves, in the name of the SBA Plan Trust;

(c) Perform the duties, exercise the powers, and assert the rights of a trustee under sections 108 and 1106 of the Bankruptcy Code, and, as provided under the Plan and the Confirmation Order, be a representative of the Debtor's Estate for purposes of section 1123(b)(3) of the Bankruptcy Code, including, without limitation, commencing, prosecuting or settling any Avoidance Actions and Causes of Action (except that the KPG-MCG Litigation shall be administered by the management of the Debtor), enforcing contracts, and asserting claims, defenses, offsets, and Privileges (in accordance with Section 1.5 of this Trust Agreement), to the extent not inconsistent with the status of the SBA Plan Trust as a liquidating trust within the meaning of Section 301.7701-4(d) of the Treasury Regulations for federal income tax purposes;

(d) Subject to the limitations provided herein, receive, manage, invest, supervise, and protect the SBA Plan Trust Assets;

(e) Hold legal title to any and all SBA Plan Trust Assets or cause such title or evidence thereof to be held by any nominee on such terms and in such manner as the SBA Plan Trust Administrator shall determine in his or her sole discretion;

(f) Subject to the applicable provisions of this Trust Agreement, collect, liquidate, recover or compel turnover of, or abandon all SBA Plan Trust Assets;

(g) Review, and where appropriate, reconcile, dispute or object to Claims, exercise offsets and defenses to Claims, and supervise and administer the commencement, prosecution, settlement, compromise, withdrawal, or resolution of all objections to Disputed Claims, subject to the provisions of this Trust Agreement and the Plan, all without the need for prior approval of the Bankruptcy Court;

(h) commence, prosecute, compromise, settle, arbitrate, withdraw, abandon, or resolve any Causes of Action or Avoidance Actions, subject to the provisions of this Trust Agreement and the Plan, all without the need for prior approval of the Bankruptcy Court;

(i) Seek a determination of tax liability under section 505 of the Bankruptcy Code (if the Chapter 11 Case is still pending); file, if necessary, any and all tax and information

returns required with respect to the SBA Plan Trust; make tax elections for and on behalf of the SBA Plan Trust; and pay taxes, if any, payable for and on behalf of the SBA Plan Trust;

(j) Pay all lawful expenses, debts, charges, taxes, and liabilities of the SBA Plan Trust;

(k) Take all other actions consistent with the provisions of this Trust Agreement that the SBA Plan Trust Administrator deems reasonably necessary or desirable to administer the SBA Plan Trust and comply with applicable law;

(l) Supervise, administer, and make distributions to the Beneficiaries as provided for in this Trust Agreement;

(m) Withhold from the amount distributable to any person (as defined in section 101(41) of the Bankruptcy Code, “Person”) or entity (as defined in section 101(15) of the Bankruptcy Code, “Entity”) such amount as may be sufficient to pay any tax or other charge the SBA Plan Trust Administrator has determined, based upon the advice of its agents and/or professionals, may be required to be withheld therefrom under the income tax laws of the United States or of any state or political subdivision thereof;

(n) Enter into any agreement or execute any document or instrument required by or consistent with this Trust Agreement and perform all obligations thereunder;

(o) Subject to Section 5.5 of this Trust Agreement, carry all insurance policies and pay all insurance premiums and costs it deems reasonably necessary or advisable;

(p) Implement, enforce, or discharge all of the terms, conditions, and all other provisions of, and all duties and obligations under this Trust Agreement, the Plan, the Confirmation Order, and as may be applicable, in respect of the Plan;

(q) Employ, compensate, and as may be necessary in the SBA Plan Trust Administrator’s sole discretion, indemnify and exculpate, professionals and other agents, including agreeing to compensation on a contingency fee basis (the SBA Plan Trust Administrator may employ, as its counsel, counsel to the Committee and Debtor) without the need for prior approval of the Bankruptcy Court; and

(r) Invest in demand and time deposits in banks or savings institutions, or temporary investments such as short-term certificates of deposit or Treasury bills or other investments that a “liquidating trust” within the meaning of Treasury Regulation Section 301.7701-4(d) may be permitted to hold, pursuant to the Treasury Regulations or any modification in the Internal Revenue Service (“IRS”) guidelines, whether set forth in IRS rulings, revenue procedures, other IRS pronouncements or otherwise.

2.3 Limitations on the SBA Plan Trust Administrator. Notwithstanding anything to the contrary under applicable law and this Trust Agreement, the SBA Plan Trust Administrator shall not do or undertake any of the following:

(a) Take, or fail to take, any action that would jeopardize treatment of the SBA Plan Trust as a “liquidating trust” for federal income tax purposes;

(b) Receive transfers of any listed stocks or securities or any readily-marketable assets, except as is absolutely necessary or required under applicable law; provided, however, that in no event shall the SBA Plan Trust Administrator receive any such investment that would jeopardize treatment of the SBA Plan Trust as a “liquidating trust” for federal income tax purposes;

(c) Exercise any investment power other than the power to invest in demand and time deposits in banks or savings institutions, or temporary investments such as short term certificates of deposit or Treasury bills or other investments that a “liquidating trust”, within the meaning of Treasury Regulation Section 301.7701-4(d), may be permitted to hold, pursuant to the Treasury Regulations or any modification in the IRS guidelines, whether set forth in IRS rulings, revenue procedures, other IRS pronouncements or otherwise;

(d) Receive or retain any operating assets of a going business, a partnership interest in a partnership that holds operating assets, or 50% or more of the stock of a corporation with operating assets, except as is absolutely necessary or required under the Plan and the Confirmation Order; provided, however, that in no event shall the SBA Plan Trust Administrator receive or retain any such asset or interest that would jeopardize treatment of the SBA Plan Trust as a “liquidating trust” for federal income tax purposes;

(e) Make the election described in Section 1.468B-9 of the Treasury Regulation to treat any portion of the SBA Plan Trust subject to Disputed Claims as a “disputed ownership fund.” Neither the SBA Plan Trust, nor the SBA Plan Trust Administrator, shall take any action that would result in the SBA Plan Trust becoming subject to registration as an “investment company” pursuant to the Investment Company Act of 1940, as amended;

(f) Commingle any of the SBA Plan Trust Assets with his or her own property or the property of any other Entity; and

(g) Notwithstanding any of the foregoing, the SBA Plan Trust Administrator shall not be prohibited from engaging in any trade or business on its own account, provided that such activity does not interfere with the SBA Plan Trust Administrator’s administration of the SBA Plan Trust.

2.4 Compensation of the SBA Plan Trust Administrator and Reimbursement of Expenses. The SBA Plan Trust Administrator shall be entitled to receive reasonable compensation in connection with the performance of his or her duties, plus reimbursement of all reasonable and documented out-of-pocket expenses incurred by the SBA Plan Trust Administrator or any personnel employed by the SBA Plan Trust Administrator in connection with the SBA Plan Trust Administrator's performance under this Trust Agreement in accordance with the SBA Plan Trust Budget (defined below). The SBA Plan Trust Administrator shall be compensated on an hourly basis for his or her services at a rate of \$500.00 per hour. Any successor to the SBA Plan Trust Administrator shall also be entitled to reasonable compensation in connection with the performance of his or her duties, plus reimbursement of reasonable and documented out-of-pocket expenses in accordance with the SBA Plan Trust Budget.

2.5 Application of SBA Plan Trust Assets. Cash in the SBA Plan Trust constituting SBA Plan Trust Assets will be applied as follows: (a) first, to make Distributions to holders of Allowed Administrative Expense Claims, including the Allowed Professional Fee Claims; (b) second, to make Distributions to holders of Allowed Class 1 Priority Non-Tax Claims; (c) third, to make Distributions to holders of Allowed Priority Tax Claims; (d) fourth to satisfy any expense of the SBA Plan Trust, including, without limitation, SBA Plan Trust Administrator compensation and expense reimbursement under Section 2.4 of this Trust Agreement and the reasonable, itemized fees and expenses of any professionals retained by the SBA Plan Trust Administrator (the "Trust Administrative Expenses"); (e) and fifth, to make Distributions to holders of Allowed Class 2 General Unsecured Claims under the Plan pursuant to, and in accordance with the priorities of, the Plan.

2.6 General Duties, Obligations, Rights, and Benefits of the SBA Plan Trust Administrator. The SBA Plan Trust Administrator shall have all duties, obligations, rights, and benefits assumed by, assigned to or vested in the SBA Plan Trust under this Trust Agreement. Such duties, obligations, rights, and benefits include, without limitation, all duties, obligations, rights and benefits relating to the collection and liquidation of the SBA Plan Trust Assets, identification and registration of Claims as set forth herein, Distributions to Beneficiaries, administration of the SBA Plan Trust, and any other duties, obligations, rights, and benefits reasonably necessary to accomplish the purpose of the SBA Plan Trust under this Trust Agreement. The SBA Plan Trust Administrator's powers are exercisable in a fiduciary capacity consistent with and in furtherance of the purposes of this Trust Agreement and consistent with and subject to this Trust Agreement and not otherwise. Considering the best interests of the Beneficiaries, except as otherwise expressly set forth herein, the SBA Plan Trust Administrator shall have the absolute right to pursue any contests or disputes in connection with Claims or other litigation related to the SBA Plan Trust and shall have no liability for the outcome of his or her decision. The SBA Plan Trust Administrator shall convene a meeting of the SBA Plan Trust Advisory Board after the Effective Date and no later than eight (8) weeks after the formation of the SBA Plan Trust so that such Committee may review and approve an initial budget (the "SBA Plan Trust Budget") and any related action plan for the administration of the SBA Plan Trust.

2.7 Replacement of the SBA Plan Trust Administrator. The SBA Plan Trust Administrator may resign at any time upon 30 days' written notice delivered to the members of the SBA Plan Trust Advisory Board, provided that such resignation shall only become effective

upon the appointment of a permanent or interim successor SBA Plan Trust Administrator. The SBA Plan Trust Administrator may also be removed by the unanimous vote of the SBA Plan Trust Advisory Board, or by a final order of the Bankruptcy Court, to the extent that the Chapter 11 Case remains pending, for cause upon the motion of the SBA Plan Trust Advisory Board and after notice and a hearing. The Debtor and the Committee shall jointly select a successor SBA Plan Trust Administrator; provided, that Committee shall file with the Bankruptcy Court a notice of the appointment of such successor SBA Plan Trust Administrator. Upon his/her/its appointment, any successor SBA Plan Trust Administrator, without any further act, shall become fully vested with all of the rights, powers, duties, and obligations of its predecessor and all responsibilities of the predecessor SBA Plan Trust Administrator relating to the SBA Plan Trust shall be terminated. In the event the SBA Plan Trust Administrator's appointment terminates by reason of dissolution, liquidation, resignation, or removal, the fees and expenses of any such SBA Plan Trust Administrator and the fees and expenses of any professional employed by such SBA Plan Trust Administrator, accrued through the effective date of his/her/its termination shall be promptly paid pursuant to Section 2.4 of this Trust Agreement, whether or not previously invoiced. The provisions of Article V of this Trust Agreement shall survive the resignation or removal of any SBA Plan Trust Administrator. Any prior SBA Plan Trust Administrator shall reasonably cooperate with any successor SBA Plan Trust Administrator and deliver all books and records and other papers and information in his or her control to such successor SBA Plan Trust Administrator. Any replaced SBA Plan Trust Administrator hereby appoints any successor SBA Plan Trust Administrator as his/her attorney in fact and agent with power of substitution for and in his or her name, place and stead to do all acts necessary to SBA Plan Trust administration. Such appointment shall not be affected by any subsequent disability or incompetence of the replaced SBA Plan Trust Administrator.

2.8 Confidentiality. The SBA Plan Trust Administrator shall, during the period that he or she serves as SBA Plan Trust Administrator under this Trust Agreement and for a period of twelve (12) months following the earlier to occur of the termination of this Trust Agreement or his/her removal or resignation hereunder, hold confidential and not use for personal gain any material, non-public information of the SBA Plan Trust or pertaining to SBA Plan Trust administration.

2.9 SBA Plan Trust Continuance. The dissolution, liquidation, resignation, or removal of the SBA Plan Trust Administrator shall not terminate the SBA Plan Trust or revoke any existing agency created by the SBA Plan Trust Administrator pursuant to this Trust Agreement or invalidate any action theretofore taken by the SBA Plan Trust Administrator, and the provisions of this Trust Agreement shall be binding upon and inure to the benefit of the successor SBA Plan Trust Administrator and all its successors or assigns.

ARTICLE III THE SBA PLAN TRUST ADVISORY BOARD

3.1 Appointment. A committee of one or more **Beneficiaries of the SBA Plan Trust** (the "SBA Plan Trust Advisory Board"), whose initial members shall be Aris J. Karalis, Esquire, Karalis PC ("Karalis"), and Edmond M. George, Esquire, Obermayer Rebmann Maxwell and Hippel ("George"), on behalf of the administrative claimants, and [two additional members

selected by the Committee] on behalf of the unsecured creditors in the Chapter 11 Case, is hereby appointed as of the Effective Date. Upon the Allowed Professional Fee Claims, Administrative Expense Claims, Priority Non-Tax Claims and Priority Claims being paid as provided by the provisions of the Plan, Karalis and George shall resign from the SBA Plan Trust Advisory Board.

3.2 Termination. The SBA Plan Trust Advisory Board shall continue in existence until such time as the SBA Plan Trust is terminated or its members unanimously elect to cause such board's dissolution.

3.3 SBA Plan Trust Advisory Board Duties and Powers. The SBA Plan Trust Advisory Board shall represent the interests of the Beneficiaries during the existence of the SBA Plan Trust and shall have the obligation to undertake in good faith each of the acts and the responsibilities set forth for the SBA Plan Trust Advisory Board in this Trust Agreement to:

(a) Approve, in accordance with the terms of this Trust Agreement, the amount of any extraordinary reserves and material distributions from the SBA Plan Trust;

(b) Terminate, by unanimous vote, the SBA Plan Trust Administrator for cause;

(c) With respect to the initial SBA Plan Trust Budget that must be adopted by the SBA Plan Trust within eight (8) weeks of the formation of the SBA Plan Trust, approve such initial SBA Plan Trust Budget;

(d) Receive and review any report detailing the means by which the SBA Plan Trust Administrator invests and/or insures SBA Plan Trust Assets pending final distribution;

(e) Approve any and all actions of the SBA Plan Trust Administrator by a majority vote that would have an extraordinary impact upon distributions to Beneficiaries, including, without limitation, the Allowance of any Disputed Claim if the Allowed amount of such claim exceeds \$250,000, provided, however, that the SBA Plan Trust Administrator must provide the SBA Plan Trust Advisory Board ten (10) business days prior, written, detailed notice of any proposed claim Allowance if the final amount of such claim exceeds \$100,000.

3.4 Vacancies. Vacancies on the SBA Plan Trust Advisory Board may be filled by a person designated by the remaining members of the SBA Plan Trust Advisory Board or if no such members remain by the SBA Plan Trust Administrator. Upon appointment of a successor member of the SBA Plan Trust Advisory Board, notice of such appointment will be filed with the Bankruptcy Court by the SBA Plan Trust Administrator during the pendency of the Chapter 11 Case. Unless and until such vacancy is filled, the SBA Plan Trust Advisory Board shall function with such reduced membership.

3.5 Voting Rights. The SBA Plan Trust Advisory Board may create by-laws (if any) as it deems necessary or convenient. The passage of such by-laws and all other decisions and action of the SBA Plan Trust Advisory Board, except as otherwise expressly set forth in this Trust Agreement, shall be by majority vote of the members of the SBA Plan Trust Advisory Board. The SBA Plan Trust Advisory Board may meet and vote in person, telephonically, or take action by

the assertion of votes after written report by electronic mail and each member of the Committee shall be entitled to receive reasonable notice of any such meeting. A majority of the sitting members of the SBA Plan Trust Advisory Board shall constitute a quorum for all purposes.

3.6 Reporting Rights. The SBA Plan Trust Administrator shall report to the SBA Plan Trust Advisory Board on a quarterly basis, or such other period as subsequently agreed to by the SBA Plan Trust Advisory Board and the SBA Plan Trust Administrator, as to the status of all Distributions, material litigation, investment/insurance of SBA Plan Trust Assets, Claim reconciliation, and all other material matters affecting the SBA Plan Trust and shall provide the SBA Plan Trust Advisory Board with (i) an updated quarterly SBA Plan Trust Budget in substantially the form as the initial SBA Plan Trust Budget; and (ii) a copy of the most recent SBA Plan Trust Report as set forth in Section 6.2 of this Trust Agreement.

3.7 Compensation of the SBA Plan Trust Advisory Board and Its Agents and Professionals. Members of the SBA Plan Trust Advisory Board shall be entitled to receive reimbursement of all reasonable and documented out-of-pocket expenses incurred by each such member or any personnel employed by each such member in connection with the SBA Plan Trust Advisory Board's performance of its duties under this Trust Agreement.

ARTICLE IV PROSECUTION AND RESOLUTION OF ANY CAUSES OF ACTION AND AVOIDANCE ACTIONS

4.1 The SBA Plan Trust Administrator's Authority to Pursue, Settle, or Abandon Any Causes of Action or Avoidance Actions. In accordance with the provisions of this Trust Agreement and pursuant to the Plan and the Confirmation Order, the SBA Plan Trust Administrator, subject to the rights of the SBA Plan Trust Advisory Board, shall have the right, power, and interest to pursue, settle, or abandon any Causes of Action (except that the KPG-MCG Litigation shall be administered by the management of the Debtor), including Avoidance Actions not otherwise released by the confirmed Plan as a representative of the Debtor's Estate pursuant to Bankruptcy Code section 1123(b)(3). For the avoidance of doubt, the Debtor shall continue to administer the KPG-MCG Litigation in accordance with the Plan.

ARTICLE V LIABILITY OF SBA PLAN TRUST ADMINISTRATOR AND SBA PLAN TRUST ADVISORY BOARD

5.1 Standard of Care; Exculpation. Neither the Debtor, the Committee, the SBA Plan Trust Administrator, the SBA Plan Trust Advisory Board, nor any director, officer, affiliate, employee, employer, member, professional, successors, assigns, agent, or representative of the SBA Plan Trust Administrator or the SBA Plan Trust Advisory Board (each, an "Exculpated Party") and collectively, the "Exculpated Parties") shall be liable for any losses, claims, damages, liabilities, obligations, settlements, proceedings, suits, judgments, causes of action, litigation, actions, or investigations (whether civil or administrative and whether sounding in tort, contract, or otherwise), penalties, costs, and expenses, including reasonable fees and disbursements

(collectively referred to herein as “Losses”), whether or not in connection with litigation in which any Exculpated Party is a party, or enforcing this Trust Agreement (including these exculpation provisions), as and when imposed on the SBA Plan Trust Administrator, incurred, caused by, relating to, based upon or arising out of (directly or indirectly) the SBA Plan Trust Administrator’s or the SBA Plan Trust Advisory Board’s execution, delivery, and acceptance of or the performance or nonperformance of its powers, duties and obligations under this Trust Agreement or as may arise by reason of any action, omission, or error of an Exculpated Party; provided, however, that the foregoing limitation shall not apply to any losses suffered or incurred by any Beneficiary that are found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted directly from the fraud, gross negligence or willful misconduct of such Exculpated Party in connection with the SBA Plan Trust. Every act taken or omitted, power exercised, or obligation assumed by the SBA Plan Trust or any Exculpated Party pursuant to the provisions of this Trust Agreement shall be held to be taken or omitted, exercised, or assumed, as the case may be, by the SBA Plan Trust or any Exculpated Party acting for and on behalf of the SBA Plan Trust and not otherwise; provided, however, that none of the foregoing Entities or Persons are deemed to be responsible for any other such Entities’ or Persons’ actions or inactions. Except as provided in the first proviso of the first sentence of this Section 5.1, every Person, firm, corporation, or other Entity contracting or otherwise dealing with or having any relationship with the SBA Plan Trust or any Exculpated Party shall have recourse only to the SBA Plan Trust Assets for payment of any liabilities or other obligations arising in connection with such contracts, dealings or relationships and the Plan Trust and the Exculpated Parties shall not be individually liable therefore. In no event shall the SBA Plan Trust Administrator or the SBA Plan Trust Advisory Board (or its members) be liable for indirect, punitive, special, incidental, or consequential damage or loss (including, but not limited to, lost profits) whatsoever, even if the SBA Plan Trust Administrator or the SBA Plan Trust Advisory Board has been informed of the likelihood of such loss or damages and regardless of the form of action. Any liability of the SBA Plan Trust Administrator under this Trust Agreement will be limited to the amount of fees paid to the SBA Plan Trust Administrator. Any liability of any member of the SBA Plan Trust Advisory Board will be limited to the amount of expenses paid to such member. For the avoidance of doubt, the foregoing shall not exculpate the Debtor’s officers and directors in connection with claims arising prior to the Effective Date.

5.2 Indemnification.

(a) The Debtor, the SBA Plan Trust Administrator, the Committee, the SBA Plan Trust Advisory Board and any director, officer, affiliate, employee, employer, member, professional, successor, assign, agent, or representative of the SBA Plan Trust Administrator or the SBA Plan Trust Advisory Board (each, an “Indemnified Party” and collectively, the “Indemnified Parties”) shall be defended, held harmless, and indemnified from time to time by the SBA Plan Trust against any and all losses, including, without limitation, the costs for counsel or others in investigating, preparing, defending, or settling any action or claim, whether or not in connection with litigation in which any Indemnified Party is a party, or enforcing this Trust Agreement (including these indemnity provisions), as and when imposed on the SBA Plan Trust Administrator, incurred, caused by, relating to, based upon or arising out of (directly or indirectly) the SBA Plan Trust Administrator’s execution, delivery, and acceptance of or the performance or nonperformance of its powers, duties, and obligations under this Trust Agreement or as may arise by reason of any action, omission, or error of an Indemnified Party; provided, however, such

indemnity shall not apply to any such losses to the extent it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted directly from the fraud, gross negligence, or willful misconduct of such Indemnified Party. For the avoidance of doubt, the foregoing shall not serve to indemnify the Debtor's officers and directors in connection with claims arising prior to the Effective Date.

(b) The SBA Plan Trust Administrator may establish a segregated account and fund such account with an appropriate amount (the "Indemnification Reserve") from the SBA Plan Trust Assets for the sole purpose of satisfying obligations of the SBA Plan Trust arising pursuant to the terms of this Section 5.2 (the "Indemnification Obligations"). Payment of any Indemnification Obligation shall be made first from the SBA Plan Trust Assets and, if the SBA Plan Trust Assets are fully depleted, then from the Indemnification Reserve. Indemnification Obligations shall have priority over any other rights to receive a distribution of the SBA Plan Trust Assets. No later than two years after the final distribution of SBA Plan Trust Assets to Beneficiaries (excluding distributions of funds from the Indemnification Reserve), or earlier in the SBA Plan Trust Administrator's sole discretion, the SBA Plan Trust shall close the account holding the Indemnification Reserve and return to the SBA Plan Trust any funds remaining in such account after satisfaction of all Indemnification Obligations associated with claims already asserted as of such date by Indemnified Parties for indemnification pursuant to this Section 5.2. Any funds from the Indemnification Reserve that become SBA Plan Trust Assets shall be distributed as SBA Plan Trust Assets pursuant to the terms of this Trust Agreement.

(c) The SBA Plan Trust shall promptly pay to the Indemnified Party the expenses set forth in subparagraph (a) above upon submission of invoices therefore on a current basis. Each Indemnified Party hereby undertakes, and the SBA Plan Trust hereby accepts its undertaking, to repay any and all such amounts so paid by the SBA Plan Trust if it shall ultimately be determined that such Indemnified Party is not entitled to be indemnified therefore under this Trust Agreement.

5.3 No Liability for Acts of Successor/Predecessor SBA Plan Trust Administrators. Upon the appointment of a successor SBA Plan Trust Administrator and the delivery of the SBA Plan Trust Assets to the successor SBA Plan Trust Administrator, the predecessor SBA Plan Trust Administrator and any director, officer, affiliate, employee, employer, professional, agent, or representative of the predecessor SBA Plan Trust Administrator shall have no further liability or responsibility with respect thereto. A successor SBA Plan Trust Administrator shall have no duty to examine or inquire into the acts or omissions of its immediate or remote predecessor and no successor SBA Plan Trust Administrator shall be in any way liable for the acts or omissions of any predecessor SBA Plan Trust Administrator unless a successor SBA Plan Trust Administrator expressly assumes such responsibility. A predecessor SBA Plan Trust Administrator shall have no liability for the acts or omissions of any immediate or subsequent successor SBA Plan Trust Administrator for any events or occurrences subsequent to the cessation of its role as SBA Plan Trust Administrator. For the avoidance of doubt, this Section 5.3 shall not waive or otherwise discharge the obligations under Section 2.8 of this Trust Agreement.

5.4 Reliance by SBA Plan Trust Administrator and SBA Plan Trust Advisory Board on Documents or Advice of Counsel. Except as otherwise provided in this Trust

Agreement, the SBA Plan Trust Administrator and the SBA Plan Trust Advisory Board, and any director, officer, affiliate, employee, employer, member, professional, agent, or representative of the SBA Plan Trust Administrator or SBA Plan Trust Advisory Board may rely, and shall be protected from liability for acting or failing to act, upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document reasonably believed by the SBA Plan Trust Administrator or the SBA Plan Trust Advisory Board to be genuine and to have been presented by an authorized party. The SBA Plan Trust Administrator or the SBA Plan Trust Advisory Board shall not be liable for any action taken or omitted or suffered by the SBA Plan Trust Administrator or the SBA Plan Trust Advisory Board in reasonable reliance upon the advice of counsel or other professionals engaged by the SBA Plan Trust Administrator or the SBA Plan Trust Advisory Board in accordance with this Trust Agreement. The SBA Plan Trust Administrator or the SBA Plan Trust Advisory Board shall be fully indemnified by the SBA Plan Trust for or in respect of any action taken, suffered, or omitted by it and in accordance with such advice or opinion.

5.5 Insurance. The SBA Plan Trust Administrator shall maintain a fiduciary bond for the Assets transferred to the SBA Plan Trust and administered by the SBA Plan Trust Administrator. The SBA Plan Trust Administrator, in consultation with the SBA Plan Trust Advisory Board, may purchase, using the SBA Plan Trust Assets, and carry all insurance policies and pay all insurance premiums and costs that the SBA Plan Trust Administrator deems reasonably necessary or advisable, including, without limitation, purchasing any errors and omissions insurance with regard to any losses it may incur, arising out of or due to its actions or omissions, or consequences of such actions or omissions, other than as a result of its fraud or willful misconduct, with respect to the implementation and administration of the Plan or this Trust Agreement.

5.6 Survival. The provisions of this Article V shall survive the termination of this Trust Agreement and the resignation, removal, liquidation, dissolution, or replacement of the SBA Plan Trust Administrator or the SBA Plan Trust Advisory Board.

ARTICLE VI GENERAL PROVISIONS CONCERNING ADMINISTRATION OF THE SBA PLAN TRUST

6.1 Books and Records.

(a) The Debtor shall provide the SBA Plan Trust Administrator with reasonable access to and copies of the books and records of the Debtor at the sole cost and expense of the SBA Plan Trust for the purposes of resolving Disputed Claims and winding up the Chapter 11 Case. For the purpose of this Section 6.1, the Debtor's books and records include physical books and records along with any data generated or maintained by computer or any other electronic medium as well as any such physical or electronic information of the Debtor maintained by or in possession of third parties, wherever located.

(b) The SBA Plan Trust Administrator also shall maintain, in respect of the SBA Plan Trust and the Beneficiaries, books and records relating to the SBA Plan Trust Assets and any income or proceeds realized therefrom and the payment of expenses of and claims against

or assumed by the SBA Plan Trust in such detail and for such period of time as may be necessary to enable it to make full and proper reports in respect thereof. Such books and records shall be maintained on a modified cash or other comprehensive basis of accounting necessary to compute and allocate the income of the SBA Plan Trust among its Beneficiaries and to facilitate compliance with the tax reporting requirements of the Plan Trust. Except as expressly provided in this Trust Agreement or as may be required by applicable law, nothing in this Trust Agreement is intended to require the SBA Plan Trust to file any accounting or seek approval of any court with respect to the administration of the SBA Plan Trust, or as a condition for making any payment or distribution out of the SBA Plan Trust Assets. Beneficiaries shall have the right upon 30 days' prior written notice delivered to the SBA Plan Trust Administrator to inspect the SBA Plan Trust's books and records, including the Register (defined below), provided such Beneficiary shall have entered into a confidentiality agreement in form and substance reasonably satisfactory to the SBA Plan Trust Administrator. Satisfaction of the foregoing condition notwithstanding, if: (i) the SBA Plan Trust Administrator determines in good faith that the inspection of the SBA Plan Trust's books and records, including the Register, by any Beneficiary would be detrimental to the SBA Plan Trust, or (ii) such Beneficiary is a defendant (or potential defendant) in a pending (or potential) action brought by the SBA Plan Trust or the Debtor or any Debtor Estate representative, the SBA Plan Trust may deny such request for inspection. Nothing in this Trust Agreement provides any Beneficiary with a right to review, inspect, seek discovery, or otherwise obtain any information that is privileged or subject to a third party's rights of privacy or confidentiality. So long as the Chapter 11 Case is pending, the Bankruptcy Court shall resolve any dispute between any Beneficiary and the SBA Plan Trust Administrator under this Section 6.1.

6.2 Distribution of Interim Reports. Following the Effective Date, on a quarterly basis, until entry of a final decree closing the Chapter 11 Case and so long as the Chapter 11 Case is pending, the SBA Plan Trust shall file with the Bankruptcy Court, and distribute to the SBA Plan Trust Advisory Board, the United States Trustee for the Eastern District of Pennsylvania (the "United States Trustee"), the United States Trustee Form 11-PCR (post confirmation reports) (the "SBA Plan Trust Reports") regarding the liquidation or other administration of the SBA Plan Trust Assets. Upon written request by a Beneficiary, the SBA Plan Trust Administrator shall provide a copy of such SBA Plan Trust Report to such Beneficiary promptly following such request. SBA Plan Trust Reports shall provide information required by the United States Trustee, including, without limitation descriptions of: (a) assets and liabilities of the SBA Plan Trust; (b) any distributions made and expenses paid pursuant to the Plan and this Trust Agreement during the applicable quarter; (c) any changes to the SBA Plan Trust Assets that have not been previously reported; and (d) any material action taken by the SBA Plan Trust Administrator in the performance of its duties under this Trust Agreement not previously reported.

6.3 Final Accounting of SBA Plan Trust Administrator. The SBA Plan Trust Administrator (or any such successor SBA Plan Trust Administrator) shall, within 90 days after the termination of the SBA Plan Trust or the dissolution, liquidation, resignation, or removal of the SBA Plan Trust Administrator, render an accounting to the SBA Plan Trust Advisory Board containing the following information:

- (a) A description of the SBA Plan Trust Assets;

(b) A summarized accounting in sufficient detail of all gains, losses, receipts, disbursements and other transactions in connection with the SBA Plan Trust and the SBA Plan Trust Assets during the SBA Plan Trust Administrator's term of service, including their source and nature;

(c) Separate entries for all receipts of principal and income;

(d) The ending balance of all SBA Plan Trust Assets as of the date of the accounting, including the Cash balance on hand and the name(s) and location(s) of the depository or depositories where the Cash is kept; and

(e) All known liabilities of the SBA Plan Trust.

6.4 Distribution of Accounting. A copy of the final accounting described in Section 6.3 of this Trust Agreement shall be made available to Beneficiaries and the United States Trustee upon request. To the extent that the Chapter 11 Case is still pending, the SBA Plan Trust Administrator shall serve notice on the United States Trustee that the final accounting is complete and available for distribution and file the notice with the Bankruptcy Court.

ARTICLE VII BENEFICIAL INTERESTS AND BENEFICIARIES

7.1 Register of Beneficiaries. The SBA Plan Trust Administrator shall maintain at all times a register of the names, distribution addresses, amounts of Allowed and Disputed Claims, and the ratable Beneficial Interests in the SBA Plan Trust of the Beneficiaries (the "Register"). The initial Register shall be delivered to the SBA Plan Trust Administrator by the Debtor and shall be based on (a) the holders of Administrative Expense Claims, including the holders of Professional Fee Claims (except for B&L that will be paid from any recovery from the KPG-MCG Litigation only and not paid from any other Assets of the Bankruptcy Estate or the SBA Plan Trust) as reconciled against the Orders issued by the Bankruptcy Court approving the foregoing claims, or, if for a period after the Effective Date, as may be approved by the SBA Plan Trust Administrator, and (b) with respect to holders of Priority Tax Claims, Class 1 Priority Non-Tax Claims, and Class 2 General Unsecured Claims, the claims register maintained in this Chapter 11 Case as reconciled against the Debtor's Schedules and the Debtor's books and records and any relevant orders of the Bankruptcy Court Allowing or disallowing/expunging Claims. Pursuant to this Trust Agreement, subject to the aforementioned review and subject to the Plan and the Confirmation Order, the SBA Plan Trust Administrator is permitted to deem Allowed Claims in his/her sole discretion based upon this review without liability to the Debtor's Estate or Beneficiaries. All references in this Trust Agreement to holders of Beneficial Interests shall be read to mean Holders of record as set forth in the Register maintained by the SBA Plan Trust Administrator and shall exclude any Beneficial Owner not recorded on such Register. The SBA Plan Trust Administrator shall cause the Register to be kept at its office or at such other place or places as may be designated by the SBA Plan Trust Administrator from time to time.

7.2 Trust Beneficial Interests. The SBA Plan Trust Administrator shall establish the Register, identifying and registering Trust Beneficial Interests in such manner as the SBA Plan Trust Administrator shall determine in his or her sole discretion consistent with section 7.1 above.

Each holder of an identified and Allowed Claim, including without limitation, any such Claim Allowed by order of the Bankruptcy Court, shall be deemed to receive Beneficial Interests in accordance with the treatment of such Claim under this Trust Agreement, and shall be entitled to Distributions as set forth herein.

7.3 Interest Beneficial Only. Ownership of a Beneficial Interest in the SBA Plan Trust shall not entitle any Beneficiary to any title in or to the SBA Plan Trust Assets or to any right to call for a partition or division of the SBA Plan Trust Assets or to require an accounting. This Trust Agreement grants exclusive authority over SBA Plan Trust administration to the SBA Plan Trust Administrator.

7.4 Evidence of Beneficial Interest. Ownership of a Beneficial Interest in the SBA Plan Trust shall not be evidenced by any certificate, security, or receipt or in any other form or manner whatsoever, except as maintained on the books and records of the SBA Plan Trust by the SBA Plan Trust Administrator, which may be the Register.

7.5 Exemption from Registration. The parties hereto intend that the rights of the holders of the Beneficial Interests arising under this Trust Agreement shall not be “securities” under applicable laws, but none of the parties hereto represents or warrants that such rights shall not be securities or shall be entitled to exemption from registration under applicable securities laws.

7.6 Transfers of Beneficial Interests. Beneficial Interests in the SBA Plan Trust shall be nontransferable except upon death of the holder of such Beneficial Interests or by operation of law. The SBA Plan Trust shall not have any obligation to recognize any transfer of Claims occurring after the Effective Date, except as specified in this Section 7.6. Only those Holders of Claims of record stated on the claims register in the Chapter 11 Case as of the close of business on the Effective Date, to the extent applicable, shall be entitled to be recognized on the SBA Plan Trust’s Register, to the extent such claims are Allowed and/or otherwise identified or registered, for all purposes hereunder.

7.7 Absolute Owners. The SBA Plan Trust Administrator may deem and treat the Beneficiary reflected as the owner of a Beneficial interest on the Register as the absolute owner thereof for the purposes of receiving distributions and payments on account thereof for federal and state income tax purposes and for all other purposes whatsoever.

7.8 Change of Address. After the Effective Date, a Beneficiary may select an alternative distribution address by serving a written notice on the SBA Plan Trust Administrator identifying such alternative distribution address by first class mail. Absent such notice, the SBA Plan Trust Administrator shall not recognize any such change of distribution address. Such notification shall be effective only upon receipt by the SBA Plan Trust Administrator.

7.9 Effect of Death, Dissolution, Incapacity, or Bankruptcy of Beneficiary. The death, dissolution, incapacity, or bankruptcy of a Beneficiary during the term of the SBA Plan Trust shall not operate to terminate the SBA Plan Trust during the term of the SBA Plan Trust, nor shall it entitle the representative or creditors of the deceased, incapacitated or bankrupt Beneficiary to an accounting or to take any action in any court or elsewhere for the distribution of the SBA

Plan Trust Assets or for a partition thereof, nor shall it otherwise affect the rights and obligations of the Beneficiary under this Trust Agreement or in the SBA Plan Trust.

7.10 Standing. Except as expressly provided in this Trust Agreement, a Beneficiary does not have standing to direct the SBA Plan Trust Administrator or the SBA Plan Trust Advisory Board to do or not to do any act or to institute any action or proceeding at law or in equity against any party upon or with respect to the SBA Plan Trust Assets.

ARTICLE VIII DISTRIBUTIONS

8.1 Distributions to Beneficiaries from SBA Plan Trust Assets. All payments to be made by the SBA Plan Trust to any Beneficiary shall be made only in accordance with the Plan and this Trust Agreement and from the SBA Plan Trust Assets net of the reserves established by the SBA Plan Trust Administrator for payment of expenses related to the actions of the SBA Plan Trust and the SBA Plan Trust Administrator, if any, and only to the extent that the SBA Plan Trust has sufficient SBA Plan Trust Assets (or income and proceeds realized from the SBA Plan Trust Assets) to make such payments in accordance with and to the extent provided for in this Trust Agreement.

8.2 Distributions; Withholding. The SBA Plan Trust Administrator shall make Distributions to Beneficiaries at such times and in such amounts as the SBA Plan Trust Administrator may determine in its sole discretion, after consulting with the SBA Plan Trust Advisory Board, after appropriate reserves have been established to fund the Trust Administrative Expenses (the “Required Reserve”); provided, in addition, to the Required Reserve, the SBA Plan Trust may retain and supplement from time to time a supplemental reserve (the “Supplemental Reserve”) in such amount: (a) as is otherwise reasonably necessary to meet contingent liabilities and to maintain the value of the SBA Plan Trust Assets during the term of the SBA Plan Trust (such as the Indemnification Reserve), and (b) to make Distributions on account of Administrative Claims of the Debtor, including Claims of Professional Persons. All such Distributions shall be made as provided, and be subject to any withholding, the Required Reserve, or the Supplemental Reserve as set forth in this Trust Agreement. Additionally, the SBA Plan Trust Administrator may withhold from amounts distributable to any Beneficiary any and all amounts, determined in the SBA Plan Trust Administrator’s sole discretion, to be required by any law, regulation, rule, ruling, directive, or other governmental requirement. In addition, all Distributions under this Trust Agreement shall be net of the actual and reasonable costs of making such Distributions.

8.3 No Distribution Pending Allowance. No payment or Distribution shall be made with respect to any Claim or its holder unless and until such Claim becomes an Allowed Claim pursuant to the Plan and the Confirmation Order and registered by the SBA Plan Trust Administrator as being held by a Beneficiary.

8.4 Disputed Claims Reserve.

(a) On or prior to the initial Distribution Date, the SBA Plan Trust Administrator shall establish one or more reserves, including the Disputed Claims Reserve (collectively, the “Disputed Claims Reserves”) for Claims that are Disputed (the “Disputed

Claims”) and are not as yet Allowed under the Plan, which Disputed Claim Reserves shall be administered by the SBA Plan Trust Administrator. The SBA Plan Trust Administrator shall reserve in cash, for distribution on account of each Disputed Claim, the distribution due on account of the full asserted amount (or such lesser amount as may be determined in the discretion of the SBA Plan Trust Administrator, but, for the avoidance of doubt, the SBA Plan Trust Administrator may seek estimation by the Court to ascertain the amount to be reserved on account of any such Disputed Claim) with respect to each Disputed Claim as if such Disputed Claim were Allowed. The SBA Plan Trust Administrator or its designated disbursement agent will, in the SBA Plan Trust Administrator’s sole discretion, distribute such amounts (net of any expenses, including any taxes relating thereto), as provided herein, if and when any such Disputed Claim is resolved consistent herewith and becomes an Allowed Claim, and any such amount will be distributable in respect of such Disputed Claim as such amount would have been distributable had the Disputed Claim been Allowed as of the Effective Date. To the extent required by applicable law, the SBA Plan Trust will pay taxes on the taxable net income or gain allocable to Holders of Disputed Claims on behalf of such holders, and if and when such Disputed Claims are ultimately Allowed, Holders whose Disputed Claims are determined to be Allowed will receive Distributions from the Plan Trust net of the taxes that the SBA Plan Trust previously paid on their behalf.

(b) To the extent that the property placed in the Disputed Claims Reserve consists of cash, that cash shall be deposited in an interest-bearing account. The SBA Plan Trust Administrator shall hold property in the Disputed Claims Reserves in trust for the benefit of the Holders of Claims ultimately determined to be Allowed that are registered.

8.5 Claims Reserves. On the Effective Date, the SBA Plan Trust Administrator shall establish and maintain one or more bank and/or other investment account(s) into which it shall, in accordance with this Section 8.5, deposit cash in amounts consistent herewith and the Plan and the Confirmation Order and may establish separate claim reserves, including the Required Reserve, the Supplemental Reserves, and the Disputed Claims Reserves (collectively, the “Claims Reserves”). Each Allowed Claim held by a Beneficiary shall be paid in cash ratably, subject to and in accordance with this Trust Agreement from funds held in the Claims Reserves as soon as practicable after the date on which such Claim becomes an Allowed Claim. If all such Claims have been paid in full, amounts remaining in the appropriate Claims Reserve, if any, may be used by the SBA Plan Trust Administrator in accordance with this Trust Agreement.

8.6 Non-Cash Property. Any non-Cash SBA Plan Trust Assets may be sold, transferred, or abandoned by the SBA Plan Trust Administrator. If, in the SBA Plan Trust Administrator’s reasonable judgment, such property cannot be sold in a commercially reasonable manner, or the SBA Plan Trust Administrator believes, in good faith, such property has no value to the SBA Plan Trust, the SBA Plan Trust Administrator shall have the right to abandon or otherwise dispose of such property. Except in the case of fraud, willful misconduct, or gross negligence, no party in interest shall have a cause of action against the SBA Plan Trust Administrator or any director, officer, employee, consultant, or professional of the SBA Plan Trust Administrator arising from or related to the disposition of non-Cash SBA Plan Trust Assets in accordance with this Section 8.6.

8.7 Unclaimed Property.

(a) The SBA Plan Trust Administrator shall hold any Distributions to Beneficiaries not cashed or otherwise claimed by the applicable Beneficiary (“Unclaimed Property”) for the benefit of such Beneficiary in accordance with the Plan and the Confirmation order. No Distribution to such holders shall be made unless and until the SBA Plan Trust Administrator, in the exercise of commercially reasonable efforts, has determined the current address of such Holders, at which time such Distribution shall be made to such Holders without any interest thereon whatsoever.

(b) Upon the conclusion of ninety (90) calendar days following the date that any Cash or other SBA Plan Trust Assets becomes Unclaimed Property, consistent with the Plan and the Confirmation Order, the Holders of Allowed Claims theretofore entitled to such Unclaimed Property shall be deemed to have forfeited such property, whereupon: (i) all rights and title to and interest in such Unclaimed Property shall immediately and irrevocably re-vest in the SBA Plan Trust for the other Beneficiaries, (ii) such Beneficiaries theretofore entitled to such Unclaimed Property shall cease to be entitled to such Unclaimed Property or any further distributions on account of such Beneficial Interests, which shall be deemed to be expunged to the extent of such forfeiture, and (iii) such Unclaimed Property shall be re-distributed by the SBA Plan Trust Administrator to the Holders of Allowed Claims that remain unpaid, either in whole or in part, consistent with the distribution provisions of the Plan, the Confirmation Order and this Trust Agreement.

8.8 Minimum Interim Distributions and Charitable Contributions Following Final Distributions. The SBA Plan Trust Administrator shall not be required to make Distributions to any Beneficiary of Cash less than \$100.00 (the “Minimum Interim Distribution Amount”) in value except during the final Distribution before the termination of the SBA Plan Trust. If a Beneficiary would be entitled to receive less than the Minimum Interim Distribution Amount as of the time of a particular interim Distribution, the SBA Plan Trust Administrator shall retain the interim Distribution to combine with subsequent Distributions to such Beneficiary so that such Beneficiary may eventually be entitled to a Distribution in excess of the Minimum Interim Distribution Amount in value. If any of the final Distributions are: (a) less than the postage and other direct costs of making such final Distribution that the SBA Plan Trust Administrator would incur in sending the final Distribution to an applicable Beneficiary or (b) are undeliverable, are Unclaimed Property that revert to the SBA Plan Trust, or if all Allowed Claims, all Trust Administrative Expenses and all Claims of Professional Persons have been paid in full, then the SBA Plan Trust Administrator may contribute such monies to the charity of its choosing before terminating the SBA Plan Trust in accordance with Section 10.1 of this Trust Agreement.

8.9 Fractional Dollars. Notwithstanding anything to the contrary contained in this Trust Agreement, the SBA Plan Trust Administrator shall not be required to make distributions or payments of fractions of dollars. Whenever any payment of a fraction of a dollar under the Plan or this Trust Agreement would otherwise be called for, the actual payment shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars or less being rounded down.

8.10 Reversion. Consistent with the Plan, upon conclusion of ninety (90) calendar days following the date any SBA Plan Trust Asset becomes Unclaimed Property, such SBA Plan Trust Asset shall be deemed Unclaimed Property under section 347(b) of the Bankruptcy Code or other applicable law and the Claim of any Beneficiary or its successors referenced in Section 8.7(a) hereof with respect to such Unclaimed Property shall be cancelled, discharged and forever barred notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary. The provisions of Section 8.7(b) of this Trust Agreement regarding Distribution of Unclaimed Property shall apply with equal force to distributions that are issued by the SBA Plan Trust Administrator, notwithstanding any otherwise applicable federal or state escheat, abandoned or unclaimed property law.

8.11 Time Bar to Cash Payments. Consistent with the Plan, checks issued by the SBA Plan Trust on account of Beneficial Interests shall be null and void and shall be deemed Unclaimed Property if not negotiated within ninety (90) days after the date of issuance thereof. Requests for the reissuance of any check that becomes null and void pursuant to this Section 8.11 shall be made directly to the SBA Plan Trust Administrator by the Beneficiary to whom the check was originally issued. Any request in respect of such voided check shall be made in writing on or before ninety (90) calendar-days after the expiration of the ninety (90) calendar-day period following the date of the issuance of such check. After that date, all Beneficial Interests in respect of void checks shall be discharged and forever barred and the proceeds of those checks shall re-vest in and become property of the SBA Plan Trust as Unclaimed Property in accordance with section 347(b) of the Bankruptcy Code or otherwise applicable law and be distributed as Unclaimed Property in accordance with Section 8.7 hereof.

8.12 Compliance with Tax Requirements. In connection with the Plan, to the extent applicable, the SBA Plan Trust Administrator shall comply with all tax withholding and reporting requirements imposed on it by any Governmental Unit, and all Distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan or the Confirmation Order to the contrary, the SBA Plan Trust Administrator shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the Distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding Distributions pending receipt of information necessary to facilitate such Distributions, or establishing any other mechanisms believed to be reasonable and appropriate. The SBA Plan Trust Administrator may require any Beneficiary to furnish to the SBA Plan Trust Administrator its social security number or employer or taxpayer identification number as assigned by the IRS and the SBA Plan Trust Administrator may condition any Distribution to any Beneficiary upon the receipt of such identification number. If a Beneficiary fails to provide information necessary to comply with any withholding requirements of any Governmental Unit within ninety (90) calendar days from the date of first notification to such Beneficiary of the need for such information, then the right of such Beneficiary to receive his/her Beneficial Interests may be discharged and forever barred and the proceeds of those Beneficial Interests may re-vest in and become property of the SBA Plan Trust as Unclaimed Property in accordance with applicable law and be distributed as Unclaimed Property in accordance with Section 8.7 hereof.

8.13 Distributions on Non-Business Days. Any payment or Distribution due on a day other than a business day shall be made, without interest, on the next business day.

8.14 No Distribution in Excess of Allowed Amount of Claim. Notwithstanding anything to the contrary herein, no holder of an Allowed Claim shall receive in respect of such claim any Distribution in excess of the Allowed amount of such Claim.

8.15 Setoff. Except as otherwise provided in the Plan or in an agreement approved by a Final Order of the Bankruptcy Court, the SBA Plan Trust Administrator may, pursuant to applicable law (including section 553 of the Bankruptcy Code), set off against any Distribution related to any Claim, before such Distribution is made on account of such Claim, any and all of the claims, rights, and causes of action of any nature that the SBA Plan Trust may hold against the Holder of such Claim; provided, however, that neither the failure to effect such a setoff, the identification or registration of any Claim relating to a Beneficial Interest, or any other act or omission of the SBA Plan Trust Administrator, nor any provision of the Plan, shall constitute a waiver or release by the SBA Plan Trust Administrator of any such claims and rights that the SBA Plan Trust Administrator may possess against such Holder.

ARTICLE IX TAXES

9.1 Income Tax Status. Consistent with Revenue Procedure 94-45, 1994-28 I.R.B. 124, the SBA Plan Trust shall be treated as a liquidating trust pursuant to Treasury Regulation Section 301.7701-4(d) and as a grantor trust pursuant to IRC Sections 671-677. As such, the Beneficiaries will be treated as both the grantors and the deemed owners of the SBA Plan Trust. Any items of income, deduction, credit, and loss of the SBA Plan Trust shall be allocated for federal income tax purposes to the Beneficiaries.

9.2 Tax Returns. In accordance with IRC Section 6012 and Treasury Regulation Section 1.671-4(a), the SBA Plan Trust Administrator shall file with the IRS annual tax returns on Form 1041. In addition, the SBA Plan Trust Administrator shall file in a timely manner such other tax returns, including any state and local tax returns, as are required by applicable law and pay any taxes shown as due thereon out of the SBA Plan Trust Assets (or the income or proceeds thereof). Within a reasonable time following the end of the taxable year, the SBA Plan Trust shall send to each Beneficiary a separate statement setting forth the Beneficiary's share of items of income, gain, loss, deduction or credit and will instruct each such Beneficiary to report such items on their federal income tax returns. The SBA Plan Trust may provide each Beneficiary with a copy of the Form 1041 for the SBA Plan Trust (without attaching any other Beneficiary's Schedule K-1 or other applicable information form) along with such Beneficiary's Schedule K-1 or other applicable information form in order to satisfy the foregoing requirement. The SBA Plan Trust shall allocate the taxable income, gain, loss, deduction, or credit of the SBA Plan Trust with respect to each Beneficiary.

9.3 Withholding of Taxes and Reporting Related to SBA Plan Trust Operations. The SBA Plan Trust shall comply with all withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and, as set forth in Article VIII of this Trust Agreement, all Distributions made by the SBA Plan Trust shall be subject to any such withholding

and reporting requirements. To the extent that the operation of the SBA Plan Trust or the liquidation of the SBA Plan Trust Assets creates a tax liability, the SBA Plan Trust shall promptly pay such tax liability out of the SBA Plan Trust Assets (or the income or proceeds thereof) and any such payment shall be considered a cost and expense of the operation of the SBA Plan Trust payable without Bankruptcy Court order. The SBA Plan Trust may reserve a sum, the amount of which shall be determined by the SBA Plan Trust Administrator, sufficient to pay the accrued or potential tax liability arising out of the operations of the SBA Plan Trust or the operation of the SBA Plan Trust Assets. The SBA Plan Trust Administrator, on behalf of the SBA Plan Trust, may enter into agreements with taxing authorities or other Governmental Units for the payment of such amounts as may be withheld.

9.4 Valuations. As soon as possible after the Effective Date, but no later than the delivery of the initial SBA Plan Trust Administrator Report in accordance with Section 6.2 of this Trust Agreement, the SBA Plan Trust Administrator shall make a good faith determination of the value of all of the SBA Plan Trust Assets and report as to the same to the SBA Plan Trust Advisory Board. Such valuation shall be used consistently by all parties (including, without limitation, the Debtor, the SBA Plan Trust, and the Beneficiaries) for all federal income tax purposes. The SBA Plan Trust Administrator also shall file (or cause to be filed) any other statements, returns, or disclosures relating to the SBA Plan Trust that are required by any Governmental Unit.

9.5 Treatment of Disputed Reserves. Notwithstanding any other provision of this Trust Agreement to the contrary, subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary, the SBA Plan Trust shall (a) treat any SBA Plan Trust Assets allocable to, or retained on account of, any Disputed Claims Reserve in accordance with Section 8.4 of this Trust Agreement as held by one or more discrete trusts for federal income tax purposes, consisting of separate and independent shares to be established in respect of each Disputed Claim, in accordance with the trust provisions of the IRC (Sections 641 et seq.), (b) treat as taxable income or loss of reserves related to Disputed Claims, with respect to any given taxable year, the portion of the taxable income or loss of the SBA Plan Trust that would have been allocated to the holders of Disputed Claims had such Claims been Allowed on the Effective Date (but only for the portion of the taxable year with respect to which such Claims are unresolved), (c) treat as a distribution from reserves regarding Disputed Claims any increased amounts distributed by the SBA Plan Trust as a result of any Disputed Claims resolved earlier in the taxable year, to the extent such distributions relate to taxable income or loss of the reserves related to Disputed Claims determined in accordance with the provisions hereof, and (iv) to the extent permitted by applicable law, report consistent with the foregoing for state and local income tax purposes. All Beneficiaries shall report, for income tax purposes, consistent with the foregoing. In the event, and to the extent, any cash retained as reserves on account of Disputed Claims is insufficient to pay the portion of any such taxes attributable to the taxable income arising from the assets allocable to, or retained on account of, Disputed Claims, such taxes shall be (a) reimbursed from any subsequent cash amounts retained on account of Disputed Claims, or (b) to the extent such Disputed Claims have subsequently been resolved, deducted from any amounts distributable by the SBA Plan Trust Administrator as a result of the resolutions of such Disputed Claims.

9.6 Expedited Determination of Taxes. While the Chapter 11 Case is pending, the SBA Plan Trust may request an expedited determination of taxes of the Debtor and of the SBA

Plan Trust, including the reserves relating to Disputed Claims, under section 505(b) of the Bankruptcy Code for all returns filed for, or on behalf of, the Debtor and the SBA Plan Trust for all taxable periods through the termination of the SBA Plan Trust.

ARTICLE X TERMINATION OF SBA PLAN TRUST

10.1 Termination of SBA Plan Trust. The SBA Plan Trust Administrator shall be discharged and the SBA Plan Trust shall be terminated, at such time as: (a) all Disputed Claims have been resolved, (b) all of the SBA Plan Trust Assets have been liquidated, (c) all duties and obligations of the SBA Plan Trust Administrator hereunder have been fulfilled, (d) all Distributions required to be made by the SBA Plan Trust Administrator under this Trust Agreement have been made, and (e) the SBA Plan Trust Administrator has submitted its final reports to the SBA Plan Trust Advisory Board; provided, however, that in no event shall the SBA Plan Trust be terminated later than the term of the SBA Plan Trust, as such term may be extended in accordance herewith.

10.2 Maximum Term. The SBA Plan Trust will terminate as soon as practicable but in no event later than the fifth anniversary of the Effective Date, or as otherwise set forth in the Plan or Confirmation Order; provided that the SBA Plan Trust Administrator may extend the term of the SBA Plan Trust for a finite period if such an extension is necessary to liquidate the SBA Plan Trust Assets or to complete any Distribution required hereunder. Multiple extensions may be obtained so long as the SBA Plan Trust Administrator receives an opinion of counsel or a favorable ruling from the Internal Revenue Service that any further extension would not adversely affect the status of the SBA Plan Trust as a grantor trust for federal income tax purposes or an order of a court of competent jurisdiction extending the term of the SBA Plan Trust (which court may be the Bankruptcy Court).

10.3 Events Upon Termination. At the conclusion of the term of the SBA Plan Trust, the SBA Plan Trust Administrator shall distribute the remaining SBA Plan Trust Assets, if any, to the Beneficiaries in accordance with this Trust Agreement.

10.4 Winding Up, Discharge, and Release of the SBA Plan Trust Administrator. For the purposes of winding up the affairs of the SBA Plan Trust at the conclusion of its term, the SBA Plan Trust Administrator shall continue to act as SBA Plan Trust Administrator until its duties under this Trust Agreement have been fully discharged or its role as SBA Plan Trust Administrator is otherwise terminated under this Trust Agreement. Upon a motion by the SBA Plan Trust Administrator, if the Chapter 11 Case is still pending, the Bankruptcy Court may enter an order relieving the SBA Plan Trust Administrator, his or her agents and employees of any further duties, discharging, and releasing the SBA Plan Trust Administrator and releasing its bond, if any. In winding up the SBA Plan Trust, the SBA Plan Trust Administrator shall have no duty to dissolve, or cancel the equity of the Debtor or any affiliate of the Debtor.

ARTICLE XI MISCELLANEOUS PROVISIONS

11.1 Amendments. The SBA Plan Trust Administrator, in consultation with the SBA Plan Trust Advisory Board and, as applicable, the Committee, may modify, supplement, or amend this Trust Agreement in any way that is not inconsistent with the Plan or the Confirmation Order.

11.2 Debtor Cooperation. The Debtor (as reorganized or liquidated under the confirmed Plan), shall, upon request of the SBA Plan Trust Administrator, execute, acknowledge, and deliver such further instruments and do such further acts as may be reasonably necessary or proper to transfer to the SBA Plan Trust Administrator the SBA Plan Trust Assets.

11.3 Waiver. No failure by the SBA Plan Trust or the SBA Plan Trust Administrator to exercise or delay in exercising any right, power, or privilege hereunder shall operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege hereunder preclude any further exercise thereof, or of any other right, power, or privilege.

11.4 Cumulative Rights and Remedies. The rights and remedies provided in this Trust Agreement are cumulative and are not exclusive of any rights under law or in equity.

11.5 Irrevocability. This Trust Agreement and the SBA Plan Trust created hereunder shall be irrevocable, except as otherwise expressly provided in this Trust Agreement.

11.6 Tax Identification Numbers. As set forth herein, the SBA Plan Trust Administrator may require any Beneficiary to furnish to the SBA Plan Trust Administrator its social security number or employer or taxpayer identification number as assigned by the IRS and the SBA Plan Trust Administrator may condition any Distribution to any Beneficiary upon the receipt of such identification number.

11.7 Division of SBA Plan Trust. Under no circumstances shall the SBA Plan Trust Administrator have the right or power to divide the SBA Plan Trust unless authorized by Section 11.1 herein or by a court of competent jurisdiction, which may be the Bankruptcy Court, while the Chapter 11 Case is pending.

11.8 Applicable Law and Related Matters. The SBA Plan Trust shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without giving effect to rules governing the conflict of laws. While the Chapter 11 Case is pending, the parties hereto consent to the jurisdiction of the Bankruptcy Court to resolve any dispute in connection with this Trust Agreement.

11.9 Severability. In the event that any provision of this Trust Agreement or the application thereof to any person or circumstance shall be determined by a court of competent jurisdiction, which may be the Bankruptcy Court, while the Chapter 11 Case is pending, to be invalid or unenforceable to any extent, the remainder of this Trust Agreement, or the application of such provision to persons or circumstance, other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Trust Agreement shall be valid and enforced to the fullest extent permitted by law.

11.10 Limitation of Benefits. Except as otherwise specifically provided in this Trust Agreement, nothing herein is intended or shall be construed to confer upon or to give any person other than the parties hereto, the Beneficiaries, any rights or remedies under or by reason of this Trust Agreement.

11.11 Notices. Except as provided in Section 11.10 of this Trust Agreement, all notices, requests, demands, consents, and other communications hereunder shall be in writing and shall be deemed to have been duly given to a Person, if delivered in person or by facsimile with an electromagnetic report of delivery or if sent by overnight mail, registered mail, certified mail, or regular mail, with postage prepaid, to the following addresses:

If to the SBA Plan Trust Administrator:

Tel.:

Email:

-and-

11.12 Further Assurances. From and after the Effective Date, the parties hereto covenant and agree to execute and deliver all such documents and notices and to take all such further actions as may reasonably be required from time to time to carry out the intent and purposes of this Trust Agreement, and to consummate the transactions contemplated hereby.

11.13 Integration. This Trust Agreement constitutes the entire agreement with, by and among the parties hereto, and there are no representations, warranties, covenants, or obligations except as set forth herein. Except as otherwise provided in this Trust Agreement, the Plan, and the Confirmation Order, nothing herein is intended or shall be construed to confer upon or give any Person, other than the parties hereto and the Beneficiaries, any rights or remedies under or by reason of this Trust Agreement.

11.14 Construction with Plan. In the event of any inconsistency between the terms, conditions and provisions of this Trust Agreement and the terms, conditions and provisions of the Plan as confirmed by the Confirmation Order, the terms, conditions and provisions of the Plan, as so confirmed, shall control.

11.15 Interpretation. The enumeration and Section headings contained in this Trust Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Trust Agreement or of any term or provision hereof. Unless context otherwise requires, whenever used in this Trust Agreement the singular shall include the plural and the plural shall include the singular, and words importing the masculine gender shall include the feminine and the neuter, if appropriate, and vice versa, and words importing persons shall include partnerships, associations, and corporations. The words herein, hereby, and hereunder and words with similar import, refer to this Trust Agreement as a whole and not to any particular Section or subsection hereof unless the context requires otherwise. Any reference to the “SBA Plan Trust Administrator” shall be deemed to include a reference to the “SBA Plan Trust” and any reference to the “SBA Plan Trust” shall be deemed to include a reference to the “SBA Plan Trust Administrator,” except for the references in Sections 5.1 and 5.2 of this Trust Agreement, and such other provisions in which the context otherwise requires.

11.16 Counterparts. This Trust Agreement may be signed by the parties hereto in counterparts, which, when taken together, shall constitute one and the same document. Delivery of an executed counterpart of this Trust Agreement by facsimile or email in PDF format shall be equally effective as delivery of a manually executed counterpart.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have either executed and acknowledged this Trust Agreement, or caused it to be executed and acknowledged on their behalf by their duly authorized officers or representatives, all as of the date first above written.

Scungio Borst & Associates, LLC

By:_____

Name:

Title: Authorized Signatory

By:_____

Committee Member #1

By:_____

Committee Member #2

By:_____

Edmond M. George

By:_____

Aris J. Karalis

IN WITNESS WHEREOF, the parties hereto have either executed and acknowledged this Trust Agreement, or caused it to be executed and acknowledged on their behalf by their duly authorized officers or representatives, all as of the date first above written.

[] solely in its capacity as SBA Plan Trust
Administrator for the SBA Plan Trust:

Name:
Title:

[Type here]